



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

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W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

Robert G. Burnley  
Director

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November 3, 2005

Ms. Pamela F. Faggert  
Vice-President and Chief Environmental Officer  
Dominion Virginia Power Company  
5000 Dominion Boulevard  
Glen Allen, Virginia 23060

RE: Federal Consistency Certification under Coastal Zone Management Act,  
Virginia Coastal Resources Management Program: North Anna Early  
Site Permit Application - DEQ-05-079F

Dear Ms. Faggert:

Thank you for your October 25, 2005, letter requesting an additional extension of 45 days, from November 7, to obtain the Commonwealth's comments on the Federal Consistency Certification which was originally submitted on March 21, 2005. In your October 25 letter, you stated Dominion has decided to modify its approach to cooling a third nuclear reactor unit at the North Anna Power Station from the base case presented in the Early Site Permit (ESP) application. The revised approach would reduce both water consumption and water temperature impacts associated with the originally proposed cooling system. As stated in your letter, details of this proposal will be provided before the end of the requested extension period.

As we discussed recently, Dominion and DEQ have mutually agreed to a stay of the consistency time clock for a period to be determined after the receipt of the proposed revisions to the referenced ESP application and sufficient time to develop an agreed upon schedule to complete a thorough review of the modified approach for the third unit.

Your October 25 extension request follows a September 16 request for a 45-day extension of the review period for the above Federal Consistency Certification and DEQ's September 20 agreement. That agreement resulted in changing the deadline for the completion of the Commonwealth's review of the federal consistency certification from September 20 to November 7, 2005. This second request would, if agreed to, move the date for the completion of our review from November 7 to December 22.

The Federal Consistency Regulations allow the State and the applicant for a federal license or permit to mutually agree to extend the six-month review period (15 CFR Part 930, section 930.60(a)(3)). This is the course of action we followed in September in response to your initial extension request. The cited provision also allows state agencies and applicants to mutually agree upon a stay of the consistency time clock.

We have discussed and agreed that a stay of the consistency time clock is the more prudent course of action at this time for the following reasons. Dominion's announcement of a revised approach to cooling the proposed third nuclear power plant at North Anna did not include the detailed analysis needed to implement the approach. We understand this detailed information is currently being developed. Accordingly, we expressed our concern that the requested 45-day extended review period would not likely be sufficient for the submission of the revised information and completion of a proper analysis of the "reasonably foreseeable" effects of the new proposal on coastal uses and resources and consistency with the enforceable policies of the Virginia Coastal Resources Management Program.

Moreover, the changes that Dominion proposes may require changes in the application for the Early Site Permit that is the subject of both the consistency certification now under review and the Nuclear Regulatory Commission's Draft EIS, about which Virginia has previously commented, that was published in the past year. Accordingly, Dominion should endeavor to demonstrate that the Nuclear Regulatory Commission (NRC), which administers the Early Site Permit process under federal law and regulations, finds the proposed new approach acceptable and feasible. Depending on the requirements of NRC's rules implementing the National Environmental Policy Act, the publication and review of a Supplemental Draft Environmental Impact Statement may be a pre-requisite to any such finding.

As you know, the Federal Consistency Regulations require that state agencies provide timely public notice of federal consistency certifications and the information necessary to analyze them (see 15 CFR 930 section 930.61). Such a notice, and the opportunity for public participation, may also be necessary for the proposed changes for cooling the proposed third unit at North Anna. In a separate mailing, we will provide you with a review of the public comments we have already received in connection with the review of the federal consistency certification.

In summary, I am writing to confirm DEQ's agreement with Dominion to a stay of the consistency time clock for a period to be determined after our receipt of the detailed analysis on the modified closed-cycle cooling approach to the proposed third nuclear unit and sufficient time to develop an agreed upon schedule to complete a thorough review of the modification.

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Please let me know in writing before November 7, 2005, if Dominion disagrees with this stay of the review period for the referenced federal consistency certification. If you have any questions, please contact me at telephone 698-4003 or Ellie Irons at 698-4325.

Sincerely,

Michael P. Murphy, Director  
Division of Environmental Enhancement

cc: Jack Cushing, NRC  
Ellie L. Irons, DEQ-OEIR  
Reviewing agencies